

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 637

Case No. 88-33C

(PUD & Map @ Mass. Ave., 13th & L Sts., N.W.)

October 16, 1989

Pursuant to notice, a public hearing for the Zoning Commission for the District of Columbia was held on June 29, 1989. At that hearing, the Zoning Commission considered an application from 247 Associates for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to the provisions of Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on December 15, 1988, requests consolidated review and approval of a PUD for property located at 1312 Massachusetts Avenue, N.W. in Square 247, Lots 853 and 867, and of a PUD and related change of zoning from HR/SP-2 to C-4 for property located at 1301 L Street, N.W. in Square 247, Lot 836, 839, 840, 843, 852, 857, 862 and 863. The owner and contract purchaser of the subject property is 247 Associates, a District of Columbia Limited Partnership; the developer is West End Corporation.
2. The PUD site has two parcels, designated Parcel A and Parcel B in the PUD application, separated by a public alley. Parcel A with premises address of 1312 Massachusetts Avenue, N.W. fronts on Massachusetts Avenue and encompasses a land area of 19,072 square feet. Parcel B with premises address of 1301 L Street, N.W. borders both 13th and L Streets and encompasses a land area of 28,654. The entire PUD site, excluding the public alley which is to remain open, consists of a total land area of 47,726 square feet.
3. The applicant proposes to remove an existing SP office building structure located on Parcel A and to construct a residential building thereon.
4. The applicant proposes to construct an office building

on the site designated Parcel B, with a substantial portion of the ground floor to be utilized for service and retail uses and a community room.

5. The SP-2 District permits medium high density development with a maximum height of 90 feet, a maximum floor area ratio of 6 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eighty percent. The maximum permitted floor area ratio may be increased for specific applications approved by the Zoning Commission under the planned unit development process. Specified office uses may be permitted in a SP-2 District but only if approved by the Board of Zoning Adjustment.
6. The HR District provides height and FAR incentives in the HR District beyond the levels which are permitted in the underlying zoning as a matter of right. The HR/SP-2 District permits a maximum height of 130 feet and a maximum floor area ratio of 8.5, provided that a minimum floor area ratio of 2.0 is devoted to hotel or apartment use.
7. The C-4 District permits matter-of-right high density development, including office, retail, housing and mixed uses to a maximum height of one hundred thirty feet, provided that the building abuts a street not less than one hundred ten feet, a maximum floor area ratio of 10.0 for all uses, and a maximum lot occupancy of one hundred percent.
8. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines and standards which may exceed or may be less than the matter-of-right standards identified above. The Zoning Commission may also approve uses that are permitted as a Special Exception by the Board of Zoning Adjustment.
9. Parcel A contains an office building formerly used by the United States Catholic Conference, Inc. for staff offices.
10. The Parcel A site is zoned SP-2 and no change is requested in the zoning classification of this site to permit erection of a residential building.
11. The applicant will erect a 134 unit apartment residential building on Parcel A which will have its main pedestrian entrance from Massachusetts Avenue. This building will be 10 stories high with basement and terrace levels, two levels of parking underground, and will contain approximately 122,373 gross square feet. The FAR for Parcel A will be 6.42. Parking spaces will

be provided for at least 89 vehicles, which would exceed the requirements of the SP-2 Zoning district. In addition, in the event vault spaces are utilized, that will add another 15 spaces to give a total of 104 parking spaces for the residential portion of the project.

12. The applicant, on Parcel B, proposes to construct a commercial office building, which will be 130 feet high and will have its pedestrian access from L and 13th Streets, N.W. The retail outlets will have pedestrian access at various locations along 13th and L Streets. This building will be 12 stories high, with a substantial portion of the ground floor devoted to neighborhood and community oriented retail uses that will include a grocery store containing approximately 6,500 square feet, and a rent-free community meeting room. Parking is provided on 3 levels below grade for 189 cars. This exceeds the requirements of the C-4 Zoning district. In the event vault space is utilized, the total number of parking spaces increases to 235. The building will contain approximately 279,203 square feet, including the retail component of 17,006 square feet. The FAR for the office building is 9.74 on the Parcel B site.
13. The office building on Parcel B has a roofline that steps up from its lowest point of seven stories at the northeast corner and rises to its highest point of 130 feet along L Street, its southern corner. The applicant's architect testified that the 13th Street frontage of the office building maintains an average height below 110 feet.
14. The applicant's architect testified that the project's design is sensitive to the unique aspects of the site and its surroundings, and it harmonizes with the existing improvements in the neighborhood. The project's design reflects community and city concerns for design features, building materials and color. The facades are articulated with masonry tower elements designed to mark the stepdowns, further breaking the apparent mass and reducing the sense of scale.
15. The development will relate favorably to development in the entire area, including its function as a transition structure. The applicant's architect testified that the contextually designed building acts as a transition and buffer between the Massachusetts Avenue neighborhood and the existing C-4 developments south of L Street.
16. The applicant's land planner testified that the

mixed-use project addresses both the economic development and the housing concerns of the District Government for this section of the Downtown. The siting along 13th Street of the office/retail component on underutilized property will expand upon the major office/retail redevelopment occurring just to the south in the heart of Franklin Square. The siting along Massachusetts Avenue of the residential component will give the entire block between 13th and 14th Streets a residential character, by removing an office building and replacing it with a residential building. Furthermore, the residential building will add 134 new residential apartment units to the Downtown district, in furtherance of the objective and policies of Section 907 of the Comprehensive Plan.

17. In compliance with the urban design elements of the Comprehensive Plan, the project will improve the streetscape system along Massachusetts Avenue. The applicant proposes to landscape the Massachusetts Avenue streetscape as set forth in the Downtown Streetscape Regulations from the corner of 13th Streets and Massachusetts Avenue to the alley west of 1314 Massachusetts Avenue. In addition, over and above the regulatory requirements, the applicant proposes to improve the sidewalk and the building lines along this segment of Massachusetts Avenue. Common landscaped courtyards and a roof terrace will be provided as a recreational amenity to all residents of the PUD residential building.
18. The PUD is consistent with the Comprehensive Plan because of the mixed-use character of the project. It will add to the housing stock of the Downtwon area of the city. The project will add to economic development of the area through conversion of an underutilized parcel at 13th and L Streets into office and retail space, and because of its convenient location in relation to access to public transporation, fosters the city's transportation goals.
19. Various benefits and amenities, not available under the site's existing zoning, will become possible under development through the PUD process. These include the following:
 - a. Mixed-use development containing a residential building and an office/retail building in the same project on the same PUD site.
 - b. New residential development of 122,373 square feet providing 134 units, including a variety of unit sizes.

- c. Elimination of a tax-exempt SP office building and the substitution of a tax-paying residential building in the SP zone.
 - d. New office retail development of approximately 17,006 square feet of community and neighborhood-oriented retail space with a rent-free community room and 262,197 square feet of first class office space.
 - e. A quality contextual, sensitively massed design, sensitive to the transitional nature of the site.
 - f. Increased tax revenues and creation of jobs from new development with minimal additional costs to the city.
 - g. Streetscape and landscaping that exceeds the minimum streetscape requirements, extends beyond the PUD site, and includes an outdoor courtyard on Parcel B available to community groups in conjunction with a rent-free community room provided on the ground floor of the office building.
 - h. In conjunction with the D.C. Minority Business Opportunity Commission, the D.C. Department of Employment Services and the Advisory Neighborhood Commission 2C, the applicant will strive to achieve a goal of 35 percent contracting to minority business enterprises, a goal of 51 percent of new jobs for District of Columbia residents, and a goal of maximizing job opportunities for neighborhood residents.
20. The applicant and its economic consultant testified that matter-of-right residential development is not economically feasible. The office component is required to carry the project and to permit a rate of return sufficient to cover land acquisition and construction costs. The applicant's economic consultant and real estate consultant testified that, under prevailing market conditions, matter-of-right development as a solely residential project would be highly inadvisable and would involve a potential loss on the project. A combined residential-office project substantially improves the potential financial returns of the PUD project.
21. The applicant's transportation and traffic consultant testified that there will be adequate on-site parking to meet the needs of residents and office workers. The peak hour traffic that would be generated would not affect the current levels of service in the area.

Access to the parking garages would be appropriate from safety and operational viewpoints, and truck access would be safe and efficient.

22. The applicant testified that SP-2 is an appropriate zoning classification for Parcel A and need not be changed to accommodate the proposed residential building.
23. As part of the Planned Unit Development, the applicant requested the Zoning Commission to permit minor variances from the SP-2 regulations to accommodate the following program requirements of the residential building:
 - a. The roof structure does not comply with the setback, height and uniform height requirements. Such nonconformance is required to provide full handicapped access to all required residential recreation space.
 - b. The open courtyards are slightly undersized. This slight nonconformance has been compensated for by unit layout and window placements which maximize light and view and by the courtyards' juxtapositions with 1314 Massachusetts Avenue's existing court and the applicant's proposed office building courtyard.
24. To facilitate the development of the office building, the applicant requests the rezoning of Parcel B from HR/SP-2 to C-4.
25. The applicant submitted a copy of the executed Memorandum of Understanding with Advisory Neighborhood Commission 2C dated June 23, 1989.
26. The District of Columbia Office of Planning (OP), by memorandum dated June 23, 1989 and by testimony presented at the public hearing, recommended approval of the PUD and map amendment of Parcel B to C-4 zoning.
27. OP believes the proposed C-4 zoning for Parcel B and the resulting mixed-use development is fully consistent with the applicable goals and policies of the Comprehensive Plan. In addition, OP believes C-4 zoning constitutes a logical zoning designation for the Parcel B site given the C-4 developments already present in Square 247 and the C-4 developments occurring directly south of the site.
28. OP believes the design of the proposed structure responds positively to the sensitive, transitional nature of the site, that the applicant's proposal

includes a number of public benefits and amenities which accrue to city and nearby residents by virtue of the site's development via the PUD process, that the proposed 134 dwelling units will contribute to the revitalization of housing opportunities in the Downtown area as well as the presence of housing along the Massachusetts Avenue corridor, that the residential building will enhance the predominantly residential character of the area north of Massachusetts Avenue by reinforcing the residential character on the south side of Massachusetts Avenue, and that the office component of the project will enhance the economic development of the Downtown.

29. The District of Columbia Department of Public Works (DPW), by memorandum dated June 19, 1989 and by testimony presented at the public hearing, did not oppose the application. The DPW believes that the parking and loading, as proposed, is adequate and that the development would not pose any adverse impacts on the surrounding street system.
30. The District of Columbia Department of Finance and Revenue, by memorandum dated May 31, 1989, had no objection to the proposal of the applicant.
31. The District of Columbia Metropolitan Police Department, by letter dated May 30, 1989, recommended that the applicant should submit a "Physical Security Plan" to the Department.
32. The Department of Recreation (DOR), by memorandum of May 25, 1989, expressed no opposition to the applicant's proposal, applauded the proposal's housing and landscaping components, and recommended consultation between the applicant's Landscape Architect and the Department's staff.
33. The District of Columbia Public Schools, by memorandum dated June 5, 1989, expressed no opposition to the proposed PUD and map amendment but requested that the applicant keep the Public Schools apprised of the exact number of one and two bedroom units to be incorporated into the residential building.
34. The District of Columbia Fire Department, by memorandum dated June 9, 1989, indicated that it had no objection to applicant's proposal provided that it complies with the fire protection and life safety provisions of the District of Columbia Construction Codes as listed in D.C. Law 6-216 and recommended that the existing seven foot alley located between the two proposed buildings be improved as a fire lane to access emergency vehicles.

35. The District of Columbia Department of Consumer and Regulatory Affairs, by memorandum dated May 25, 1989, requested that applicant submit a "Stormwater Management Plan" for review and approval by the Department's Soil Resources Branch prior to any land disturbance activity.
36. Advisory Neighborhood Commission (ANC) 2C, in whose jurisdiction the PUD site is located, by letter dated June 21, 1989, supported the applicant's proposal but had two concerns in regard to proposed project including:
 - a. The attractiveness of the design of the two proposed buildings; and
 - b. The proposed amenity package offered.

It was further stated that the streetscape and landscape treatment for the PUD and the community-oriented retail and community room associated with the office building were viewed by ANC-2C as highly positive benefits to its community.

37. City Councilmember John A. Wilson (Ward Two), by letter dated June 16, 1989, indicated support for applicant's proposal.
38. Five individuals were admitted as persons in opposition because of parking and traffic concerns, the loss of natural light and ventilation, and because of how the project may adversely affect those residing at 1314 and 1300 Massachusetts Avenue, N.W.
39. James T. Draude, Esq., representing the 1300 Massachusetts Avenue Owners Incorporation, was admitted as a party in opposition. Mr. Draude believed that the application should be evaluated on the basis of the PUD guidelines for SP-2 Districts, not on the basis of the PUD guidelines for the C-4 Districts. He further stated that the amenities and public benefits proffered by the applicant are minimal and ephemeral.
40. Dr. Balfour D. Mattox, representing the 1300 Massachusetts Avenue Owners Cooperative, Incorporated was admitted as a party in opposition, and was opposed to the project because the applicants proposal would extend the Central Business District, C-4 zone, to the property line of the cooperative. He further stated that the project would reduce the light and air available to the Cooperative and would otherwise make the building less desirable for residential purposes.
41. The Commisison concurs with the recommendation of the

Office of Planning and the positions of the Department of Public Works, the Department of Finance and Revenue, the Metropolitan Police Department, the Department of Recreation, the D.C. Public Schools, the Fire Department, and the Department of Consumer and Regulatory Affairs.

42. The Commission further concurs with the position of various persons in support of the application, and finds that the residential component of the project will serve as a benefit to the community because of the potential of having twenty-four hour vitality in the community.
43. The Commission finds that the amenities package is of significant merit to the immediate community and the city.
44. The Commission finds that the rezoning of Parcel B from HR-SP-2 to C-4 is appropriate because of the existing pattern of C-4 developments in the immediate area, and within Square 247.
45. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated October 11, 1989, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential, institutional, commercial and mixed-planned residential, institutional, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.

4. The approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
5. The approval of this application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District.
8. The Zoning Commission has accorded to the Advisory Neighborhood Commission (ANC) 2C the "great weight" to which it is entitled.
9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this application for consolidated review of a Planned Unit Development for Lots 853 and 867 in Square 247 at 1312 Massachusetts Avenue, N.W. and of a Planned Unit Development and change of zoning from HR/SP-2 to C-4 for Lots 836, 839, 840, 843, 852, 857, 862 and 863 in Square 247 at 1301 L Street, N.W. The approval of this PUD and change of zoning are subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed as a mixed-use project on two separate sites within the same square, one site containing a residential building and the other site an office building with service, retail, office and community use on the ground floor, in accordance with the plans prepared by David M. Schwarz/Architectural Services, P.C., marked as Exhibit 20A of the record, as modified by the guidelines, conditions and standards of this order.
2. The floor area ratio of the entire mixed-use PUD project shall not exceed 8.41 (9.74 FAR office building on the Parcel B site and 6.42 FAR residential building on the Parcel A site), excluding roof structures.
3. The height of the office building shall not exceed one

hundred thirty (130) feet, excluding roof structures; the height of the residential building shall not exceed 90' feet, excluding roof structures.

4. The lot occupancy of the project shall not exceed eighty-three (83) percent (90% for the office building and 71% for the residential building).
5. Antennas shall be permitted on the roof of the buildings subject to the regulations in effect at the time that the antennas are to be erected.
6. A minimum of one hundred eighty-nine (189) off-street parking spaces shall be provided in the office building; a minimum of eighty-nine (89) off-street parking spaces shall be provided in the residential building.
7. Access to the office building parking garage shall be from 13th Street, south of Massachusetts Avenue. Access to the residential building parking garage shall be via the public alley system in the rear of the project. Access to the loading berths for both the residential and the office buildings shall be via the same alley system.
8. Landscaping shall be provided in accordance with the plans prepared by Michael Vergason, Landscape Architect, marked as Exhibit 20A, except that applicant shall be responsible for the installation of landscaping treatment in front of the residential buildings adjacent to the PUD residential building only if approval for such installation is received from the appropriate District of Columbia agencies. The applicant shall make a good faith effort to secure approval from such agencies to install the proposed landscaping treatment. The applicant shall maintain the landscaping installed in front of the residential and office buildings, and if approval is granted for installation of landscaping treatment in front of the adjacent residential buildings. The applicant agrees to maintain the planted landscape treatment for the duration of the PUD.
9. The applicant shall install site lighting in the public alley abutting the east wall of the residential building, subject to obtaining any approvals required from District of Columbia agencies, in accordance with the plans prepared by Michael Vergason, Landscape Architect, marked as Exhibit 20A. The applicant shall pay for the new lights proposed to be installed on public property in connection with the project.
10. No hotel, motel, boarding house and private club, inn,

hostel, bed and breakfast, tourist house, guesthouse, or other transient accommodation shall be conducted or permitted in the apartment building to be erected on Parcel A.

11. All leases for the apartment units shall be for a minimum of 12 months.
12. No apartment units shall be leased to any corporation partnership, association, joint venture, government agency, trust or estate.
13. The community room in the office building and the courtyard located in the northwest corner of the office building shall be made available to the ANC or other community groups for daytime or evening use at no cost.
14. Prior to the issuance of a building permit, the applicant shall implement a program with the Department of Employment Services and the Minority Business Opportunity Commission to provide first-source jobs hiring for D.C. residents, and to involve minority individuals and businesses with a goal to award thirty-five (35) percent of the construction and management contracts.
15. The change of zoning from HR/SP-2 to C-4 for Parcel B (lots 836, 839, 840, 843, 852, 857, 862 and 863 in Square 247) shall be effective upon recordation of a covenant as required by Section 2407 of the Zoning Regulations.
16. The Planned Unit Development covenant shall contain a provision that stipulates the following:

"The courtyard located in the northwest corner of the office building located at 1301 L Street, N.W. shall be of a minimum size of 2125 square feet as shown on the attached plat, Exhibit 20A."
17. No building permit shall be issued for this PUD until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order or amendments thereof, of the Zoning Commission.
18. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of the DCRA until the applicant has filed a certified copy of

said covenant with the records of the Zoning Commission.

19. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, application must be filed for a building permit as specific in Subsection 2407.1 of the Zoning Regulations. Construction shall start within three (3) years of the effective date of this order.
20. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2038, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this Order shall be understood to require the Zoning Regulations Division?DCRA to approve permits, if the applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public meeting on August 7, 1989: 4-0 (John G. Parsons, William L. Ensign, Lloyd D. Smith and Maybelle Taylor Bennett to approve with conditions, Tersh Boasberg, not voting, not having participated in the case).


The guidelines, conditions and standards were approved at the public meeting on September 11, 1989 by a vote of 4-0 (John G. Parsons, Lloyd D. Smith, Maybelle Taylor Bennett and William L. Ensign to approve as amended, Tersh Boasberg, not voting, not having participated in the case).

This order was adopted by Zoning Commission at its public meeting on October 16, 1989 by a vote of 3-0: (Lloyd D. Smith, John G. Parsons, and Maybelle Taylor Bennett to approve as amended; William Ensign, not present, not voting; and Tersh Boasberg, not voting, not having participated in the case).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is on

NOV 10 1989


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat